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FILED

JUL 23 1999

KEVIN E. O'BRIEN, CLERK
UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA**

In Re:	)	Chapter 11
)	
BCE WEST, L.P., <i>et al.</i>,	)	Case Nos. 98-12547
	)	Through 98-12570-ECF-CGC
Debtors.	)	Jointly Administered
)	
EID # 38-3196719)	
)	
	)	ORDER ON EIGHTH MOTION FOR
	)	AUTHORITY TO SELL REAL
	)	PROPERTY OUTSIDE THE
	)	ORDINARY COURSE OF BUSINESS
	)	FREE AND CLEAR OF LIENS
	)	[DE 968]
)	
In Re:)	
)	
BOSTON CHICKEN, INC.	)	98-12548-ECF-CGC
)	
In Re:)	
)	
BC REAL ESTATE INVESTMENTS, INC.	)	98-12564-ECF-CGC
)	

On July 20, 1999, the Court held a hearing to consider the Eighth Motion for Authority to Sell Real Property Outside the Ordinary Course of Business Free and Clear of Liens (the "Motion") [DE 968] filed by the Debtors identified in the Motion. At the hearing on the

1 Motion the Court heard proffered testimony and statements of counsel for the Debtors concerning
2 the fairness of consideration received and the best interests of the estates as to those properties
3 with respect to which no competitive bids were received at the hearing. Based on the bids received
4 and the evidence adduced, the Court finds that it has jurisdiction to consider this matter; that
5 granting the relief requested by the Motion is appropriate; that the Debtors have exercised
6 appropriate business judgment in pricing and marketing the properties; that the prices received for
7 the Debtors' property interests are fair, reasonable and in the best interest of the Debtors, their
8 estates, creditors, and equity interest holders; and that the purchasers of the properties are good
9 faith purchasers for purposes of 11 U.S.C. § 363(m). Additionally, the terms and conditions for
10 bidding set forth in the Motion are incorporated as part of the sales transactions and agreed to by
11 each party submitting bids. This order incorporates those terms and conditions as part of the
12 Court's findings as to the reasonableness of the sales. In consideration of the foregoing, and due
13 and proper notice of the Motion having been given, and no objections having been filed to the
14 Motion, it is accordingly
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17 **Store # 714**

18 ORDERED that the Debtor BC Real Estate Investments, Inc. is authorized to sell
19 Boston Market store number 714 and any remaining fixtures and equipment in such store, located
20 in Portland, Oregon, to Shopping Center Enterprises, Inc. and its successors and assigns as the
21 successful bidder for a total cash price of \$650,000, on the terms and conditions set forth in the
22 Motion and in the Debtors' standard form contract. It is further
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1 ORDERED that the sale to Shopping Center Enterprises, Inc. and its successors
2 and assigns will be free and clear of all liens with any valid prepetition liens attaching to the sale
3 proceeds. It is further

4 **Store # 2484**

5 ORDERED that the Debtor Boston Chicken, Inc. is authorized to sell Boston
6 Market store number 2484 and any remaining fixtures and equipment in such store location,
7 located in Yakima, Washington, to Burger King Corporation and its successors and assigns as the
8 successful bidder for a total price of \$690,001, on the terms and conditions set forth in the Motion
9 and in the Debtors' standard form contract. It is further

10 ORDERED that the sale to Burger King Corporation and its successors and assigns
11 will be free and clear of all liens with any valid prepetition liens attaching to the sale proceeds. It
12 is further

13 ORDERED that in the event Burger King Corporation fails to close the transaction,
14 Miguel Lopez Santos and its successors and assigns is approved as the backup bidder for
15 \$680,001.00 on the same terms and conditions. It is further

16 **General Provisions**

17 ORDERED that upon closing of any sale this Order may be filed or recorded with
18 any appropriate filing or recording agency to memorialize that, without any further act by any
19 party, *this Order releases and terminates all security interests, liens, claims and encumbrances that*
20 *exist or are asserted against any of the property being sold pursuant to this Order; notwithstanding*
21 *the foregoing, however, any person asserting such a lien, claim or encumbrance shall, promptly*
22 *upon demand by the Debtor, execute, deliver, file or record, as appropriate, such documents as*
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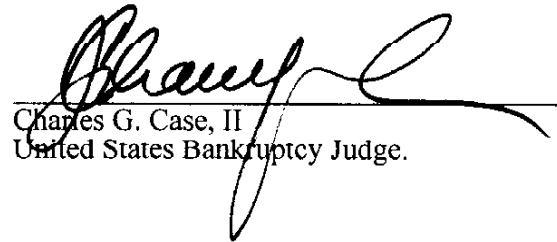
1 may be reasonable or necessary to evidence the release and termination of such lien, claim or
2 encumbrance. It is further

3 ORDERED that nothing contained in this Order shall (a) constitute a determination
4 by the Court of the validity, priority, perfection, or amount of the respective prepetition liens and
5 security interest asserted by any entity in respect of any of the sales, (b) grant standing to any third
6 party, including the Committee, to (i) avoid or otherwise challenge the validity, priority,
7 perfection, or amount of such prepetition liens and security interests and (ii) seek the
8 disgorgement and recovery of the proceeds of any of the sales from any entity whose prepetition
9 liens and security interests asserted in respect of such property are avoided pursuant to order of
10 the Court or (c) prejudice or impair the right of the Committee to seek authority from the Court to
11 (i) avoid or otherwise challenge the validity, priority, perfection, or amount of such prepetition
12 liens and security interests and (ii) seek the disgorgement and recovery of the proceeds of any of
13 the sales from any entity whose prepetition liens and security interests asserted in respect of such
14 property are avoided pursuant to order of the Court. It is further

17 ORDERED that all liens and security interests in the property being sold or
18 otherwise disposed of hereunder shall attach the proceeds of sale, and, immediately upon receipt
19 thereof, the Debtors shall pay such proceeds to General Electric Capital Corporation ("GECC"),
20 as administrative agent for the Debtors' debtor-in-possession lenders, for application to the
21 outstanding loans to the Debtors pursuant to that certain Debtor in Possession Credit Agreement
22 between, among other parties, the Debtors and GECC as provided therein. It is further
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1 ORDERED that notwithstanding the Order for Joint Administration [DE 23], the
2 Clerk is directed to file a copy of this Order in the docket of each case that appears in the caption
3 of this Order.

4 Dated: July 23, 1999.

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7 Charles G. Case, II
8 United States Bankruptcy Judge.
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